

ORIGINAL

OPEN MEETING AGENDA ITEM



0000109381

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

MAR 26 2010

**COMMISSIONERS**

KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2010 MAR 26 P 4:09

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

*[Signature]*

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. E-01933A-05-0650  
TUCSON ELECTRIC POWER COMPANY FOR ) DOCKET NO. E-01933A-07-0402  
APPROVAL OF ITS PROPOSED ZERO-NET )  
ENERGY HOMES PILOT PROGRAM. ) **TUCSON ELECTRIC POWER**  
) **COMPANY'S EXCEPTIONS**  
) **TO THE RECOMMENDED**  
) **ORDER**

Tucson Electric Power Company ("TEP" or the "Company"), through undersigned counsel, hereby submits its comments to the Proposed Order and Staff Report on its Application For Approval Of Its Proposed Zero-Net Energy Homes Pilot Program ("Application") that was submitted in this docket by the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"). The Proposed Order as written would deny TEP's request for approval of the Application. However, TEP believes that the Company's Application should be approved, for reasons explained below.

On June 30, 2009, TEP submitted its Application along with the Company's proposed Zero-Net Homes Pilot Program ("Program"). The Company's Application was in response to a Commission decision ordering TEP to evaluate the feasibility and cost-effectiveness of a pilot program to promote a "zero-net residential energy efficiency program" (Decision No. 70628 (November 25, 2008)). The Program would expand the Company's existing New Home Construction Program by adding two high performance tiers, for a total of three tiers. Homes would qualify for one of the three tiers based on a Home Energy Ratings System. TEP would utilize existing delivery infrastructure and marketing to promote all three energy efficient home construction tiers. The additional tiers would also significantly enhance the energy efficiency of TEP's New Home Construction Program, even though it would not achieve 100% zero-net energy.

1 As part of its Program, TEP conducted benefit-costs tests. Based on the results of those  
2 tests, TEP believes the Program is cost-effective, and should be approved as being in the public  
3 interest. The Company believes that the incremental benefits of the Program outweigh the  
4 incremental costs – including the fact that the Program can be incorporated into its existing New  
5 Home Construction Program.

6 TEP understands that Staff recommends denial of the Program because Staff believes the  
7 Program is not cost-effective. Even so, TEP believes that implementing the Program is a valuable  
8 and necessary step towards the goal of evaluating cost-effective zero-net energy home standards.  
9 Further, the Program's objectives are to: (1) reduce peak demand and energy consumption; (2)  
10 implement programs that include more aggressive energy efficiency standards; (3) encourage  
11 installation of solar photovoltaic systems and solar water heaters in new homes; (4) stimulate  
12 energy efficiency standards that exceed EPA/DOE Energy Star Homes® performance standards;  
13 (5) stimulate construction of new homes that are inspected and tested to assure energy performance;  
14 and (6) stimulate the installation of other high efficiency products.<sup>1</sup> Finally, the Program is similar  
15 to that being proposed by UNS Electric, Inc. in Docket No. E-04204A-07-0365. Staff is  
16 recommending approval of UNS Electric's zero-net energy homes pilot program in that docket.<sup>2</sup>

17 TEP agrees with the recommendations Staff proposes in the event the Commission  
18 approves the Company's Application. Those recommendations include that the Company market  
19 the Program to gas/electric homes, and that TEP file (for Commission approval) an application to  
20 continue, modify or terminate the Program within 42 months after the date of the Decision in this  
21 matter. TEP also agrees to provide the following information as part of its compliance filing with  
22 the requirements established for its existing New Home Construction Program, including: (1)  
23 progress toward the goal of net-zero energy homes; (2) information on whether incremental  
24 measure and program costs are conforming to expectations; (3) data indicating whether the energy  
25 savings estimated for each tier have actually occurred and have been verified in practice; (4)

26  
27 <sup>1</sup> See Program (June 30, 2009) at 5.

<sup>2</sup> See Staff Report, Docket No. E-04204A-07-0365 (March 16, 2010) at 9.

1 explanations and proposed solutions if participation, incremental and program costs or energy  
2 savings are significantly different than originally estimated; and (5) any other information necessary  
3 for the Commission to understand the progress and status of the Program.

4 For the reasons stated above, TEP believes its proposed Zero-Net Homes Pilot Program  
5 should be adopted. A proposed amendment for approving the Program is set forth in Attachment  
6 A.

7 RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of March 2010.

8 TUCSON ELECTRIC POWER COMPANY

9  
10 By  \_\_\_\_\_

11 Philip J. Dion  
12 Melody Gilkey  
13 Tucson Electric Power Company  
14 One South Church Avenue, Suite 200  
15 Tucson, Arizona 85701

16 and

17 Michael W. Patten  
18 Jason D. Gellman  
19 Roshka DeWulf & Patten, PLC  
20 One Arizona Center  
21 400 East Van Buren Street, Suite 800  
22 Phoenix, Arizona 85004

23 Original and 15 copies of the foregoing  
24 filed this 26<sup>th</sup> day of March 2010 with:

25 Docket Control  
26 Arizona Corporation Commission  
27 1200 West Washington Street  
Phoenix, Arizona 85007

1 Copy of the foregoing hand-delivered/mailed  
2 this 26<sup>th</sup> day of March 2010 to:

3 Chairman Kristin K. Mayes  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Commissioner Gary Pierce  
8 Arizona Corporation Commission  
9 1200 West Washington Street  
10 Phoenix, Arizona 85007

11 Commissioner Paul Newman  
12 Arizona Corporation Commission  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007

15 Commissioner Sandra D. Kennedy  
16 Arizona Corporation Commission  
17 1200 West Washington Street  
18 Phoenix, Arizona 85007

19 Commissioner Bob Stump  
20 Arizona Corporation Commission  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23 **Copy of the foregoing emailed this 26th**  
24 **day of March 2010 to:**

25 Janet Wagner, Esq.  
26 Robin Mitchell, Esq.  
27 Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
[jwagner@azcc.gov](mailto:jwagner@azcc.gov)  
[rmitchell@azcc.gov](mailto:rmitchell@azcc.gov)  
[nscott@azcc.gov](mailto:nscott@azcc.gov)  
[rosorio@azcc.gov](mailto:rosorio@azcc.gov)  
[mfinical@azcc.gov](mailto:mfinical@azcc.gov)

Steve Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

[aigwe@azcc.gov](mailto:aigwe@azcc.gov)  
[cbuck@azcc.gov](mailto:cbuck@azcc.gov)  
[tford@azcc.gov](mailto:tford@azcc.gov)  
[bkeene@azcc.gov](mailto:bkeene@azcc.gov)

Jane Rodda, Esq.  
Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
400 W. Congress  
Tucson, Arizona 85701  
[jrodda@azcc.gov](mailto:jrodda@azcc.gov)

Daniel Pozefsky, Chief Counsel  
Residential Utility Consumer Office  
1100 West Washington, Suite 220  
Phoenix, Arizona 85007  
[dpozefsky@azruco.gov](mailto:dpozefsky@azruco.gov)  
[brigsby@azruco.gov](mailto:brigsby@azruco.gov)  
[egamble@azruco.gov](mailto:egamble@azruco.gov)

C. Webb Crockett  
Patrick J. Black  
FENNEMORE CRAIG, PC  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
[wcrockett@fclaw.com](mailto:wcrockett@fclaw.com)  
[pblack@fclaw.com](mailto:pblack@fclaw.com)  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)

Michael Grant, Esq.  
Gallagher & Kennedy  
2575 East Camelback Road  
Phoenix, Arizona 85016  
[mmg@gknet.com](mailto:mmg@gknet.com)  
[gyaquinto@arizonaic.org](mailto:gyaquinto@arizonaic.org)

Peter Q. Nyce, Jr  
General Attorney-Regulatory Office  
Department of the Army  
901 North Stuart Street  
Arlington, Virginia 22203  
[peter.nyce@us.army.mil](mailto:peter.nyce@us.army.mil)

1 Dan Neidlinger  
Neidlinger & Associates  
2 3020 North 17<sup>th</sup> Drive  
Phoenix, Arizona 85015  
3 [dneid@cox.net](mailto:dneid@cox.net)  
4 Nicolas J. Enoch  
Lubin & Enoch, PC  
5 349 North Fourth Avenue  
Phoenix, Arizona 85003  
6 [Nicholas.enoch@azbar.org](mailto:Nicholas.enoch@azbar.org)  
7 Lawrence Robertson  
P. O. Box 1448  
8 Tubac, AZ 85646  
[tubaclawyer@aol.com](mailto:tubaclawyer@aol.com)  
9 Thomas Mumaw  
10 Barbara A. Klemstine  
Arizona Public Service Company  
11 P. O. Box 53999, Station 9708  
Phoenix, Arizona 85072  
12 [Barbara.klemstine@aps.com](mailto:Barbara.klemstine@aps.com)  
[Meghan.grable@pinnaclewest.com](mailto:Meghan.grable@pinnaclewest.com)  
13 [Susan.casady@aps.com](mailto:Susan.casady@aps.com)  
14 Robert J. Metli  
Snell & Wilmer LLP  
15 One Arizona Center  
400 East Van Buren  
16 Phoenix, AZ 85004  
[rmetli@swlaw.com](mailto:rmetli@swlaw.com)  
17 Christopher Hitchcock  
18 Law Offices of Christopher Hitchcock  
P. O. Box AT  
19 Bisbee, Arizona 85603  
[lawyers@bisbeelaw.com](mailto:lawyers@bisbeelaw.com)  
20 Timothy Hogan  
21 Arizona Center for Law  
in the Public Interest  
22 202 East McDowell Road, Suite 153  
Phoenix, Arizona 85004  
23 [thogan@aclpi.org](mailto:thogan@aclpi.org)  
24 Jeff Schlegel  
SWEEP Arizona Representative  
25 1167 West Samalayuca Dr  
Tucson, Arizona 85704  
26 [schlegelj@aol.com](mailto:schlegelj@aol.com)  
27

David Berry  
Western Resource Advocates  
P. O. Box 1064  
Scottsdale, Arizona 85252  
[azbluhill@aol.com](mailto:azbluhill@aol.com)

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
[KBoehm@bkllawfirm.com](mailto:KBoehm@bkllawfirm.com)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)

Greg Patterson  
Arizona Competitive Power Alliance  
916 West Adams, Suite 3  
Phoenix, Arizona 85007  
[gpatterson3@cox.net](mailto:gpatterson3@cox.net)

Cynthia Zwick  
1940 E. Luke Avenue  
Phoenix, Arizona 85016  
[czwick@azcaa.org](mailto:czwick@azcaa.org)

William P. Sullivan  
Curtis, Goodwin, Sullivan,  
Udall & Schwab, PLC  
501 East Thomas Road  
Phoenix, Arizona 85012  
[wsullivan@cgsuslaw.com](mailto:wsullivan@cgsuslaw.com)

By 

ATTACHMENT

"A"

**Attachment A**  
**Tucson Electric Power Company's**  
**Suggested Amendment to the Proposed Order**

- (1) Page 11, line 16, **INSERT** the following new FINDING OF FACT NO. 24:  
“While we understand Staff is recommending to deny TEP’s application, we believe approving TEP’s ZEH Pilot Program is a valuable and necessary step towards the goal of cost-effective zero-net-energy home standards. Therefore, we will approve TEP’s ZEH Pilot Program subject to the reporting requirements that TEP must provide with its compliance filing for the existing New Home Construction Program under Decision No. 70458. In addition, marketing efforts should include gas/electric homes. Finally, TEP will file, for Commission approval, an application to continue, modify or terminate the ZEH Pilot Program. TEP will make that filing 42 months after the date of this Decision.”
  
- (2) Page 11, line 23, **DELETE** CONCLUSION OF LAW NO. 3 and **INSERT** the following new CONCLUSION OF LAW NO. 3: “The Commission concludes that it is in the public interest to approve the TEP request for approval of its Zero-Net Energy Homes Pilot Program, as discussed herein, subject to the conditions in Finding of Fact Nos. 23 and 24.”
  
- (3) **DELETE** entire text at Page 12, lines 1-2, and **INSERT** the following: “IT IS THEREFORE ORDERED that Tucson Electric Power Company’s request for approval of its Zero-Net Energy Homes Pilot Program be and hereby is approved, as discussed herein.”
  
- (4) MAKE ANY AND ALL CONFORMING CHANGES.